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November 10, 2003

Dr. Robert A. McGuire  
Associate Administrator for  
Hazardous Materials Safety  
Research & Special Programs Admin.  
Department of Transportation  
Washington, DC 20590

DOT/RSPA/OHMS  
UNIT  
03 NOV 25 PM 5:08

**Re: Petition for rule change; marking  
for routine maintenance of IBCs**

Dear Dr. McGuire:

In accordance with Part 106 of the RSPA procedural regulations, on behalf of the Reusable Industrial Packaging Association (RIPA), I hereby petition for incorporation of a UN marking requirement into title 49 CFR. This marking provision was omitted in the proposed rulemaking in HM-215E and, in the final rule, was described as being beyond the scope of the notice.

Because the notice proposed adoption of international provisions based on the 12th Edition of the UN Model Regulations, we believe the public understood the comprehensive scope of the rulemaking, even though this specific marking provision may have been overlooked by DOT. In addition, we know that the associations representing manufacturers and reproducers of IBCs commented in this docket in support of the mark.

We understand that another publication is being prepared to make adjustments to the final rule in HM-215E and we ask, if at all possible, that this omission be among the items corrected.

Section 4.1.2.4 of the UN Model Regulations on the Transport of Dangerous Goods reads:

Except for routine maintenance of metal, rigid plastics, composite and flexible IBCs performed by the owner of the IBC, whose State and name or authorized

symbol is durably marked on the IBC, the party performing routine maintenance shall durably mark the IBC near the manufacturer's UN design type marking to show:


- (a) The State in which the routine maintenance was carried out; and
- (b) The name or authorized symbol of the party performing the routine maintenance.

When these portions of the UN Orange Book were proposed for inclusion in 49 CFR, this UN marking provision was not included. We believe it should have been proposed for inclusion in Sec. 180.350, and suggest that it be added there as a new subparagraph (d).

We note that this marking provision not only appears in the UN Model Regulations, but in virtually every UN-based national and international dangerous goods code in the world except the United States. RIPA is part of the International Confederation of Container Reconditioners (ICCR) who, in conjunction with associations of makers, users, and reconditioners of these units, proposed comprehensive IBC provisions in the UN. The remainder of the UN provisions adopted at that time were included in the HM-125E final rule. We are unaware of any reason for the U.S. to vary from the international standards on this point and, therefore, petition for inclusion of this language in Part 180.

As noted at the outset, if it is possible to include this UN marking language in the next publication in Docket No. HM-215E, we believe that would be the most effective remedy. That way RIPA members could maintain hazmat employee training requirements that accurately reflect the global IBC requirements. If HM-215E adoption is not possible, expedited adoption through the next miscellaneous rulemaking docket is requested. Please contact me if you have any questions on this petition.

Sincerely,



Lawrence W. Bierlein  
General Counsel to RIPA